

PRIOR PAPERS ON SUBJECT: ☒ NO ☐ YES

REFS: _____

COMMENTS: _____

25 SEP 1992

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EXECUTIVE SECRETARIAT
ROUTING SLIP

TO:		ACTION	INFO	DATE	INITIAL
1	DCI		X		
2	DDCI		X		
3	EXDIR/CIA				
4	EXDIR/ICA		X		
5	DDA		X		
6	DDI		X		
7	DDO		X		
8	DDS&T		X		
9	D/OPAI				
10	IG				
11	COMPT				
12	D/OCA				
13	GC		X		
14	Chm/NIC		X		
15	D/OSWR/DI		X		
16	NIO/STP		X		
17	D/RTT/DI		X		
18	D/NPC		X		
19					
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22	<i>EN</i>				
SUSPENSE		Date			

Remarks

ER 92-4726

Executive Secretary

24 September 1992

Date

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 NATIONAL SECURITY COUNCIL
 WASHINGTON, D.C. 20506

20528

September 24, 1992

ER 92-4726

20 SEP 1992

MEMORANDUM FOR

MR. W. ROBERT PEARSON
 Executive Secretary
 Department of State

COL MICHAEL SHERFIELD
 Executive Secretary
 Department of Defense

MS. CAROLE A. TRIMBLE
 Chief of Staff
 and Counsellor to
 the Secretary of Commerce
 Department of Commerce

MS. BARBARA STARR
 Executive Secretary
 Arms Control and Disarmament
 Agency

CAPTAIN H. L. SHEFFIELD
 Secretary
 Joint Chiefs of Staff

Executive Secretary
 Central Intelligence Agency

25X1

MS. ANN LAVIN
 Director, Executive Secretariat
 Department of Energy

SUBJECT: Administrative Guidance for NSD-53 (U)

Review by the relevant Policy Coordinating Committees found NSD-53 to be meeting its goal of providing for an effective and efficient export license processing mechanism. Agencies agreed, however, that supplemental administrative guidance would help clarify certain issues related to the NSD. The following interagency-agreed procedures shall therefore take effect immediately: (U)

1. The Department of Commerce shall circulate for inter-agency comment draft export license referral procedures within one week of the date of this memorandum. Within fifteen days thereafter, Commerce shall forward to the PCCs on Nonproliferation Policy and Technology Transfer, as appropriate, summaries of issues in dispute related to export license referral procedures. Within fifteen days of their receipt of this summary, the Chairmen of the PCCs on Nonproliferation Policy and Technology Transfer shall submit to the Chairman of the Deputies Committee for further action a summary of agreed and disputed issues related to export license referral procedures. Subsequent to the implementation of new export license referral procedures, the PCCs should review export license processing deadlines with the goal of further improving overall service to industry. (C)

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2. At Tab A are charters for the missile and CBW proliferation working groups. These charters take effect immediately. (U)

3. Some agencies believe that a review of certain export licenses at a level between the Advisory Committee on Export Policy (ACEP) and the Export Administration Review Board (EARB) could resolve issues without resort to Cabinet-level meetings. Consistent with NSD-53, paragraph 10, and deadlines as outlined in paragraph 7, such meetings may be convened as necessary at the request of any participating agency to resolve issues on an informal basis. All ACEP/EARB participating agencies will be included in such meetings. (C)

4. When there is interagency agreement to license an export, subject to government-to-government assurances, end-use assurances, safeguard agreements or other international consultations, the NSD-53 "clock" should not show the case as delayed by State. However, in such instances, State should seek such assurances within 10 days of notification by Commerce of this requirement. State will follow up with foreign governments on these requests within thirty days. If assurances are not forthcoming within ninety days, Commerce should notify the exporter and consider the export as "held without action by exporter request," or return the license without action, or denied, as appropriate. (C)

5. The Department of Commerce will prepare a summary of NSD-53 procedures for release to the public within thirty days. (U)

6. NSD-53 "policy kickout" requests should be sent to the NSC Executive Secretary or to both the NSC Senior Directors for Defense Policy and International Economic Affairs. (U)

7. Whenever possible, export license applications should be subject to only one "policy kickout." Agencies requesting such policy reviews must ensure that a copy of the memorandum to the NSC is provided to each ACEP agency. Within ten days of receiving the policy review notice, it is incumbent on each agency to supplement the policy kickout with any other issues that they believe need to be considered along with the issue that led to the policy review. (U)

8. Agencies requesting an NSD-53 policy review must state clearly the policy issue that is being remanded to the NSC committee structure for a decision. Furthermore, they must within ten days of the initial request provide the NSC and ACEP participating agencies with a detailed analysis of the policy issue and their understanding of the views of other agencies. (U)

9. Further reports by Commerce to the President on the processing of export licenses are not required. Such reporting would duplicate unnecessarily reports that are routinely furnished to the Congress. (U)

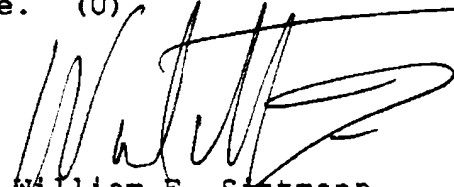
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10. Actions that are related to export license processing, but are not related to interagency review of licenses, should be expedited. Such "third party" actions include pre-license checks and international consultations. Enforcement actions should be expedited to the extent possible. (U)



William F. Sittmann
Executive Secretary

Attachment
Tab A Charters

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T A B A

Charter of the Missile and CBW Proliferation
License-Review Working Groups

It is U.S. policy to make every effort to reduce and contain worldwide the threat of chemical and biological weapons (CBW) and missile proliferation. Implementing this policy requires effective coordination of U.S. CBW and missile proliferation efforts.

To assist the PCC on Nonproliferation (PCC-NP) in carrying out its responsibilities, the following sub-groups are chartered to carry out the functions described below and other tasks that may be assigned by this PCC.

Missile Technology Export Control Group (MTEC):

The MTEC will consist of working-level representatives of the Department of State (State), Department of Defense (OSD), Joint Chiefs of Staff (JCS), Department of Commerce (Commerce), Arms Control and Disarmament Agency (ACDA), National Aeronautics and Space Administration (NASA), Customs, the Intelligence Community (represented by CIA, DIA, NSA, the DCI's Nonproliferation Center and State INR), and others at the invitation of the Chair and concurrence of the MTEC. Chaired by State PM/PRO, the MTEC will meet as required to review license applications for U.S. exports of missile proliferation concern, referred according to agreed criteria. The review will take into account information provided by the intelligence agencies. This review process shall not infringe on other appropriate interagency review for purposes other than missile proliferation. By consensus the MTEC will recommend approval (with or without provisos), approval with government-to-government missile technology assurances, return without action (RWA), or denial, and the MTEC chairman will transmit the MTEC recommendation to the appropriate licensing agency.

Commerce-referred license applications for which no consensus can be found will be handled in accordance with NSD-53 procedures. Consistent with Executive Order 12755, voting agencies on such cases are Commerce, State, Defense, Energy and ACDA, with other agencies acting in an advisory capacity. For these unresolved license applications the MTEC will be responsible for the formulation of all analysis related to such license applications as required by NSD-53 for the escalation process. State-referred USML cases for which no consensus can be found will be elevated to the PCC on Nonproliferation by the Chair.

Chemical and Biological Weapons Control Group (CBWCG):

The CBWCG consists of working-level representatives of State, Defense, JCS, Commerce, ACDA, Customs, NSA, CIA, and the DCI's Nonproliferation Center. NSC and Energy may designate representatives to any meeting of the CBWCG as their interests may require.

The CBWCG, known as "Shield", is co-chaired by State PM/PRO and NEA/RA and meets as required. The Chair will call CBWCG meetings and circulate to all agencies listed above an agenda.

The CBWCG will, inter alia, review license applications for exports of CW- or BW-related items referred by Commerce and State on the basis of agreed criteria. By consensus the group will recommend approval (with or without provisos), approval with government-to-government assurances, return without action (RWA), or denial, and the CBWCG chair will transmit the group's recommendation to the appropriate licensing agency.

Commerce-referred licenses for which no consensus can be found will be handled in accordance with NSD-53 procedures. Consistent with Executive Order 12755, voting agencies on such cases are Commerce, State, Defense, Energy and ACDA, with other agencies acting in an advisory capacity. For these unresolved license applications, the CBWCG will be responsible for the formulation of all analyses related to such license applications as required by NSD-53 for the escalation process. State-referred USML cases for which no consensus can be found will be elevated to the PCC on Nonproliferation by the Chair.

TIME OF TRANSMISSION

ER 92-4726

TIME OF RECEIPT

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SEP 24 AM 11:03

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SITUATION ROOM

SEP 24 11 14 AM '92

PRECEDENCE: IMMEDIATE
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RELEASES:

DTG:

MESSAGE NO. 1448 CLASSIFICATION CONFIDENTIAL PAGES 6
FROM WILLIAM F. SITTMANN 456-6534
(Name) (Phone Number) (Room No.)
MESSAGE DESCRIPTION ADMINISTRATIVE GUIDANCE FOR NSD-53

NSC Log #

TO (Agency)	DELIVER TO:	DEPT/ROOM NO.	PHONE NUMBER
STATE	MR. W. ROBERT PEARSON	EXEC SEC	
DOD	COL MICHAEL SHERFIELD	EXEC SEC	
DOE	MS. ANN LAVIN	DIRECTOR, EXEC SECRETARIAT	
JCS	CAPT H.L. SHEFFIELD	SECRETARY	
CIA		EXEC SEC	

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REMARKS:

PLEASE DELIVER TO ADDRESSEE ASAP.